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May 28, 1996

PERSONNEL MEMO 96 - 4

MEMORANDUM

TO: Cabinet Secretaries
Agency Heads
Personnel Executives

FROM: Robert S. Peters *RSP*
Secretary

SUBJECT: 101 KAR 2:100E and 101 KAR 3:010E
Emergency Leave Regulations

Enclosed are the Emergency Leave Regulations, 101 KAR 2:100E and 101 KAR 3:010E which became effective on Thursday, May 23, 1996 at 8:00 a.m. These regulations restore the ability of Appointing Authorities to withhold the payment of accumulated annual leave in instances in which an employee is dismissed for cause or fails to give proper notice of resignation. There is an exception for withholding pay for failure to give proper notice if the employee was unable to give the notice through no fault of his or her own.

The Emergency Regulations also clarify the fact that an employee does not necessarily need to request Family and Medical Leave in order to qualify for it. It is incumbent upon the supervisor to designate qualifying leave as Family and Medical Leave.

A Notice of Intent to file regular Administrative Regulations was filed along with the Emergency Regulations and a hearing is scheduled for July 29, 1996 at 10:00 a.m. in the large conference room (Room 508) at the Personnel Cabinet.

Any questions concerning these regulations may be directed to Dan Egbers at 564-4460.

RSP/CMP/lw

Enclosures

**KENTUCKY
ADMINISTRATIVE REGULATIONS**

REMOVE

INSERT

101 KAR 2:100

38 - 49

101 KAR 2:100E

**ENTIRE
EMERGENCY
REGULATION**

101 KAR 3:010

62 - 70

101 KAR 3:010E

**ENTIRE
EMERGENCY
REGULATION**

EMERGENCY REGULATION

101 KAR 2:100E

LEAVE ADMINISTRATIVE REGULATIONS

RELATES TO: KRS 18A.030, 18A.110, 18A.195, 61.394,
344.030, PL 103-3

STATUTORY AUTHORITY: KRS 18A.030, 18A.110, 18A.155, 344.030, PL
103-3

NECESSITY AND FUNCTION: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations, consistent with KRS Chapter 18A, which govern annual leave, sick leave, special leaves of absence, and for other conditions of leave. This administrative regulation establishes policies governing these subject matters.

SECTION 1. ANNUAL LEAVE

- (1) (a) Each full-time employee in the state service, except a seasonal, temporary, per diem, and emergency employee, and a part-time employee who works at least 100 hours a month shall accumulate annual leave with pay at the following rate:

Months of Service**Annual Leave Days**

0-59 months

1 leave day per mo; 12 per year

60-119 months

1 1/4 leave days per mo; 15 per year

120-179 months

1 1/2 leave days per mo; 18 per year

180 months and over

1 3/4 leave days per mo; 21 per year

- (b) A full-time employee shall have worked more than half of the workdays in a month to qualify for annual leave. An employee shall be credited with additional leave upon the first day of the month following the month in which the leave is earned.
- (c) In computing months of total service for the purpose of earning annual leave, only the months:
1. For which a full-time employee earned annual leave shall be counted; or
 2. In which a part-time employee worked at least 100 hours shall be counted.
- (d) If an employee is changed from part time to full time, the months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing years of total service.
- (e) Former employees who have been rehired and who have been previously dismissed for cause from state service shall receive

credit for service prior to the dismissal, unless the dismissal resulted from a violation of KRS 18A.140, 18A.145, or 18A.990.

(f) If an employee is changed from full time to part time, the months for which the employee earned annual leave as a full-time employee shall be counted in computing months of total service.

(g) A part-time employee who works less than 100 hours a month shall not be entitled to annual leave.

(2) (a) Annual leave may be accumulated and carried forward from one (1) calendar year to the next as provided in this paragraph:

Months of Service	Maximum Amount
0-59 months	Thirty (30) workdays
60-119 months	Thirty-seven (37) workdays
120-179 months	Forty-five (45) workdays
180-239 months	Fifty-two (52) workdays
240 months and over	Sixty (60) workdays

(b) Leave in excess of the amounts specified in paragraph (a) of this subsection shall be converted to sick leave at the end of the calendar year or upon retirement.

(c) The amount of annual leave that may be accumulated, and the

amount of annual leave that may be converted to sick leave, shall be determined by computing months of service as provided by subsection (1)(a) of this section.

- (3) Absence due to sickness, injury, or disability in excess of the amount authorized for such purposes may, at the request of the employee be charged against annual leave.
- (4)
 - (a) Accumulated annual leave shall be granted by the appointing authority in accordance with operating requirements and, insofar as practicable, with an employee's request.
 - (b) An employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the calendar year, up to at least the amount of time he earned that year.
- (5) An employee shall be charged with annual leave for absence only on days on which he would otherwise work and receive pay.
- (6)
 - (a) Annual leave shall accrue if an employee is working or on authorized leave with pay.

- (b) Annual leave shall not accrue if an employee is on educational leave with pay.
- (7) An employee who is transferred or otherwise moved from the jurisdiction of one agency to another shall retain his accumulated annual leave in the receiving agency.
- (8) Before an employee may be placed on leave of absence without pay in excess of thirty (30) working days, he shall have used or have been paid for any accumulated annual leave unless he has requested to retain up to ten (10) days of accumulated annual leave.
- (9) An employee who is eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave during the previous month subject to the following conditions:
 - (a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.
 - (b) When an employee is unable to work, and elects to use paid leave to qualify for state contribution for life insurance and health

benefits, he shall utilize his paid leave days consecutively.

- (c) An employee who has exhausted paid leave shall not qualify for state contribution for life insurance and health benefits unless he works for more than half of the workdays in a month. If the employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.
 - (d) An employee who leaves state government on or prior to the 15th day of the month, before working or being on paid leave for over half of the workdays in the month, shall remain eligible for state contribution for life insurance and health benefits in the following month.
- (10) (a) If an employee is separated by proper resignation or retirement, he shall be paid in a lump sum for accumulated annual leave. The accumulated annual leave for which he is paid shall not exceed the amounts established by subsection (2) of this section.
- (b) If an employee is laid off, he shall be paid in a lump sum for all accumulated leave.

(c) An employee in the unclassified service who reverts to the classified service, or resigns one (1) day and is employed the next day, shall retain his accumulated leave in the receiving agency.

(d) The effective date of a separation shall be the last work day.

(e) An employee may request in writing that his accumulated annual leave not be paid upon resignation, and that all or part of the amount of his accumulated annual leave that does not exceed the amount established by this section be waived, if:

1. He resigns, or is laid off from his position, because of an approved plan of privatization of the services he performed; and

2. The successor employer has agreed to credit him with an equal amount of annual leave.

(11) An employee who has been dismissed for cause or who has failed to give proper notice of resignation, unless in the exercise of due diligence, the employee was unable to give the required notice through no fault of his own, shall not be paid [~~in a lump sum~~] for accumulated annual leave [~~not to exceed the maximum amounts set forth in Section 2(2) of this administrative regulation~~].

- (12) Upon the death of an employee, his estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave.
- (13) Absence for a fraction or part of a day that is charged to annual leave shall be charged in hours or increments of one-quarter (1/4) hours.

SECTION 2. SICK LEAVE

- (1) (a) An employee in the state service, except an emergency, per diem and part-time employee who works less than 100 hours a month, shall accumulate sick leave with pay at the rate of one (1) working day for each month of service.
- (b) An employee shall have worked more than half of the workdays in a month to qualify for sick leave with pay.
- (c) An employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned.
- (d) A part-time employee who works at least 100 hours a month shall accumulate sick leave with pay at the rate of one (1) working day for each month of service.

- (e) An employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave was earned.
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- (2)
 - (a) A full-time employee who completes 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service.
 - (b) In computing months of total service for the purpose of crediting ten (10) additional days of sick leave, only the months for which an employee earned sick leave shall be used.
 - (c) If an employee is changed from part time to full time, the months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing months of total service.
 - (d) A part-time employee who works at least 100 hours a month completing 120 months of total service with the state shall be credited with ten (10) additional sick leave days upon the first day of the month following the completion of 120 months of service.
 - (e) In computing months of total service for a part-time employee who works at least 100 hours a month for the purpose of crediting ten (10) additional sick leave days, only the months in which the

employee worked at least 100 hours shall be used.

- (f) If an employee is changed from full time to part time, the months for which the employee earned sick leave as a full-time employee shall be counted in computing years of total service.
 - (g) The total service shall be verified before the leave is credited to the employee's record.
 - (h) A former employee who is rehired after having been dismissed for cause from state service shall receive credit for service prior to the dismissal, if the dismissal was not due to a violation of KRS 18A.140, 18A.145, or 18A.990.
- (3) Unused sick leave may be accumulated with no maximum on accumulation.
- (4) (a) Sick leave shall accrue if an employee is working or on authorized leave with pay.
- (b) Sick leave shall not accrue if an employee is on educational leave with pay.
- (5) An appointing authority shall grant or require the use of accrued sick leave with pay if an employee:

- (a) Receives medical, dental or optical examination or treatment;
 - (b) Is disabled by sickness, injury or pregnancy. The appointing authority may require a doctor's statement attesting to the inability to perform his duties;
 - (c) Is required to care for a sick or injured member of his immediate family for a reasonable period of time. The appointing authority may require a doctor's statement supporting the need for care by the employee;
 - (d) Would jeopardize the health of others at his duty post, because of exposure to a contagious disease;
 - (e) Has lost by death a parent, child, brother or sister, or the spouse of any of them, or any persons related by blood or affinity with a similarly close association. Leave under this paragraph shall be limited to three (3) days, and may be extended for good cause at the discretion of the appointing authority.
- (6) At the termination of sick leave with pay not exceeding six (6) months, the appointing authority shall return the employee to his former position. At the termination of sick leave with pay exceeding six (6) months, the appointing authority shall return the employee to a position for which he is qualified and which resembles his former position as closely as

circumstances permit.

- (7) (a) An appointing authority shall grant sick leave without pay for the duration of an employee's impairment by sickness, or illness, or pregnancy, if the total continuous leave does not exceed one (1) year.
- (b) The appointing authority may require periodic doctor's statements during the year attesting to the employee's continued inability to perform the essential functions of his duties with or without reasonable accommodation.
- (c) If an employee has given notice of his ability to resume his duties, the appointing authority shall return the employee to a position for which he is qualified and which resembles his former position as closely as circumstances permit.
- (d) If the reasonable accommodation is necessary, the employee shall:
 - 1. Inform the employer; and
 - 2. Upon request, provide supportive documentation from a certified professional.
- (e) An employee shall be considered to have resigned if he:
 - 1. Has been on one (1) year continuous sick leave without pay;
 - and

2. Has been requested by the appointing authority in writing to return to work at least ten (10) days prior to the expiration of sick leave; and
3. Is unable to return to work; or
4. Has been given priority consideration by the appointing authority for a vacant, budgeted position with the same agency, for which he qualifies and is capable of performing its essential functions with or without reasonable accommodation; and
5. The appointing authority has been unable to place him in such a vacant position.

(f) An employee who has been resigned under this subsection shall retain reinstatement privileges that were accrued during his service in the classified system.

(8) An employee eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave during the previous month subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contribu-

tions for life insurance and health benefits in the following month.

- (b) An employee shall utilize his paid leave days consecutively if he:
 - 1. Is unable to work; and
 - 2. Has elected to use paid leave to qualify for state contribution for life insurance and health benefits.

- (c) An employee who has exhausted paid leave shall qualify for state contribution for life insurance and health benefits if he works for more than half of the workdays in a month.

- (d) If an employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.

- (e) An employee who leaves state government on or prior to the 15th day of the month, before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contribution for life insurance and health benefits in the following month.

- (9) Absence for a fraction or part of a day that is chargeable to sick leave shall be charged in hours or increments of one-quarter ($1/4$) hours.

(10) An employee who is transferred or otherwise moved from the jurisdiction of one agency to another shall retain his accumulated sick leave in the receiving agency.

(11) (a) An employee shall be credited for accumulated sick leave if he is:

1. Separated by proper resignation, layoff, retirement; or
2. Granted leave without pay.

(b) A former employee who is reinstated or reemployed shall be credited with the unused sick leave balance credited to him upon separation.

(12) (a) If an absence is due to illness or injury for which Workers' Compensation benefits are received, accumulated sick leave may be used to maintain regular full salary.

(b) If paid sick leave is used, Workers' Compensation pay benefits shall be assigned to the state for the period of time the employee received paid sick leave.

(c) The employee's sick leave shall be immediately reinstated to the extent that Workers Compensation Benefits were assigned.

(13) Application for sick leave.

- (a) An employee shall file a written application for sick leave with or without pay within a reasonable time.
- (b) Except for an emergency illness, an employee shall request advance approval for sick leave for medical, dental or optical examination, and for sick leave without pay.
- (c) If he is ill, an employee shall notify his immediate supervisor or other designated person. Failure, without good cause, to do so in a reasonable period of time shall be cause for denial of sick leave for the period of absence.

(14) Supporting evidence.

- (a) An appointing authority may, for good cause and on notice, require an employee to supply supporting evidence in order to receive sick leave. A supervisor's or employee's certificate may be accepted, but a medical certificate may be required, signed by a licensed practitioner and certifying to the incapacity, examination, or treatment. An appointing authority shall grant sick leave when the application is supported by acceptable evidence.
- (b) An appointing authority may place on sick leave an employee whose health might be jeopardized by job duties, whose health might jeopardize others, or whose health prevents performance of

duties and responsibilities, and who, on request, fails to produce a satisfactory medical certificate.

SECTION 3. FAMILY LEAVE

(1) (a) An employee in state service shall qualify for twelve (12) weeks of family leave if he has:

1. Completed twelve (12) months of service; and
2. Worked at least 1,250 hours in the preceding year.

(b) Unused family leave shall not be carried over from year to year.

This section shall be construed in a manner consistent with the Family and Medical Leave Act of 1993, 20 USC 2601, et seq. and 29 CFR Part 825.

(2) (a) A week of family leave shall be the amount of time an employee normally works each week.

(b) If an employee's schedule varies from week to week, a weekly average of the hours worked over the twelve (12) weeks prior to the beginning of the family leave shall be used for calculating the employee's normal work week.

- (c) If there has been a permanent or long-term change in the employee's schedule (for reasons other than family leave), the hours worked under the new schedule shall be used for calculating the employee's normal work week.
- (3) An employee who has[~~requested~~] qualified for family leave shall be notified of the family leave designation, in writing, within two (2) business days of the date on which the request was made.
- (b) An employee shall request family leave as far in advance as reasonable.
- (c) The appointing authority shall require the employee to utilize accumulated sick and annual leave prior to granting unpaid family leave, provided that the employee may request to reserve ten (10) days of paid sick leave and annual. The amount of available family leave shall be reduced by the amount of paid leave used.
- (d) An appointing authority shall grant family leave because of:
1. A serious health condition, of the employee, that makes the employee temporarily unable to perform the essential functions of his position;
 2. The birth of a child of an employee, adoption of a child by an

employee, or the placement of a foster child under an agreement with an agency of the Commonwealth or other state government;

3. The care of a newborn child of the employee, adoption of a child by the employee, or placement of a foster child with the employee, within one (1) year of the birth, adoption or placement;

4. The care of an employee's spouse, parent, child, or other family member who has:

a. Resided with the employee for not less than thirty (30) days prior to the request; and

b. A serious medical condition.

(e) A medical condition shall be deemed a serious medical condition if it:

1. Requires the employee to receive inpatient care or continuing treatment by a health provider; and

2. Renders the employee incapable of performing the duties of his position.

(f) A child shall include a person who is:

1. Under eighteen (18) years old; or

2. Is incapable of self-care because of a mental or physical

disability.

- (4) (a) An employee who requests family leave for a serious medical condition shall supply a certification on "Family And Medical Leave Request Form" from a health care provider that states that the:
1. Employee is in need of care; or
 2. Employee is needed to care for a family member; or
 3. Presence of the employee would be beneficial to the family member in need of care.
- (b) If an employee requests intermittent leave, or leave on a reduced leave schedule due to a serious medical condition of the employee or family member, he shall supply a certification from a licensed health care provider that states:
1. That leave is medically necessary; and
 2. Specifies the expected duration and schedule of the leave.
- (c) A licensed health care provider shall be a:
1. Doctor of medicine;
 2. Doctor of osteopathy;
 3. Podiatrist;
 4. Dentist;
 5. Clinical psychologist;

6. Optometrist;
7. Chiropractor;
8. Nurse practitioner;
9. Nurse midwife; or
10. Certified Christian Science practitioner.

- (d) If an employee submits a complete certification signed by the health care provider, the appointing authority shall not request additional information from the employee's health care provider. If the appointing authority has reason to doubt the validity of a medical certification the appointing authority may require the employee to obtain a second opinion at the agency's expense. The appointing authority shall designate the health care provider to furnish the second opinion. The designated health care provider shall not be employed on a regular basis by the agency.
- (e) If the opinions of the employee's health provider and the designated health care provider differ, the appointing authority may request the employee to obtain certification from a third health care provider who is approved by the employee. This third opinion shall be final and binding. If the appointing authority does not act in good faith to attempt to reach an agreement on the third health care provider, the appointing authority shall be bound by the

original certification. If the employee does not act in good faith to attempt to reach an agreement on the third health care provider, the employee shall be bound by the opinion of the second health care provider. An appointing authority may require recertification of the need for family leave every thirty (30) working days.

- (f) All documents relating to family leave shall be maintained separate from the personnel file and shall be confidential.

(5) An appointing authority may temporarily reassign an employee to an available alternative position with equivalent pay and benefits, if the:

- (a) Employee requests intermittent leave, or a reduced work schedule to care for a seriously ill family member or because of his own serious medical condition;
- (b) Need for the leave is reasonably based on planned medical treatment;
- (c) Employee is qualified for the position; and
- (d) Temporary assignment better accommodates recurring periods of leave than the employee's regular job.

(6) An employee eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or

been on paid leave or shall have been on family leave during the previous month subject to the following conditions:

- (a) Any combination of work days, paid leave and family leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month;
- (b) An employee shall utilize his paid leave days consecutively if he:
 - 1. Is unable to work; and
 - 2. Elects to use paid leave to qualify for state contributions for life insurance and health benefits.
- (c) An employee shall utilize his family leave days consecutively if he:
 - 1. Is unable to work; and
 - 2. Elects to use family leave as the sole qualification for state contributions for life insurance and health benefits.
- (d) An employee who has exhausted paid leave and family leave shall not qualify for state contribution for life insurance and health benefits unless he works for more than half of the work days in a month. If the employee is unable to work for more than half of the work days in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contribution and the employee contributions

for such benefits.

- (e) Except as provided by paragraph (f) of this subsection, an employee shall reimburse the Commonwealth for state contributions paid on his behalf if he:
 - 1. Uses family leave as the sole qualification for state contributions for life insurance and health benefits; and
 - 2. Fails to return to work for thirty (30) calendar days after his family leave is exhausted.
- (f) The employee shall not be required to reimburse the Commonwealth if the reason the employee does not return is:
 - 1. Due to the continuation, recurrence or onset of a serious health condition which would entitle the employee to family leave under this administrative regulation; or
 - 2. Other circumstances beyond the employee's control, such as:
 - a. A relative or individual other than an immediate family member has a serious health condition and the employee is needed to provide care; or
 - b. The employee is laid off while on leave.
- (g) Circumstances are not beyond the employee's control if:
 - 1. An employee desires to remain with a parent in a distant city even though the parent no longer requires the employee's

care; or

2. A parent decides not to return to work to stay with a newborn child.
- (h) An employee on family leave shall be responsible for the employee's share of contributions for life insurance and health benefits. The contributions shall be due at the same time the contributions would be made by payroll deduction. An employee shall be granted a thirty (30) calendar day grace period to make an employee contribution for life insurance and health benefits and shall be notified by the agency, in writing, fifteen (15) calendar days before benefits expire.
 - (i) If the employee does not make the contribution within the thirty (30) day grace period, the employee's life insurance and health benefits shall cease on the date the grace period ends. Life insurance and health benefits shall be restored thirty (30) calendar days after his return to work. Effective the first day of the employee's return, benefits shall be restored to the same level of coverage that existed when leave commenced.
- (7) At the conclusion of the family leave, an employee shall be restored to the same job that the employee held before going on leave. The employee

shall be returned to the same shift or equivalent schedule. If special qualifications are required for a position and said qualifications have lapsed during the employee's leave, the employee may be reassigned to different duties and given a reasonable opportunity to fulfill the requirements after returning to work.

SECTION 4. COURT LEAVE.

- (1) An employee shall be entitled to leave of absence from duties during his scheduled working hours without loss of time or pay for the amount of time necessary to:
 - (a) Comply with subpoenas by a court, or administrative agency or body of the federal or state government or any political subdivision thereof;
 - (b) Serve as a juror or a witness, unless the employee or a member of his family is a party to the proceeding.
- (2) Court leave shall include necessary travel time.

- (3) If relieved from duty as a juror or witness during his normal working hours, the employee shall return to work.
- (4) An employee shall not be required to report as court leave attendance at a proceeding that is part of his assigned duties.

SECTION 5. COMPENSATORY LEAVE AND OVERTIME

- (1)
 - (a) Appointing authorities shall comply with the overtime and compensatory leave provisions of the Fair Labor Standards Act (FLSA).
 - (b) An employee who is authorized to work in excess of the prescribed hours of duty shall be granted compensatory leave or paid overtime subject to the provisions of the Fair Labor Standards Act, the Kentucky Revised Statutes and this administrative regulation.
 - (c) Compensatory leave may be accumulated or taken off in one-quarter (1/4) hour increments.
 - (d) The maximum amount of compensatory leave that may be carried forward from one (1) pay period to another shall be 240 hours.

- (2) An employee who is transferred or otherwise moved from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.
- (3) Upon separation from state service, an employee shall be paid for all unused compensatory leave at the greater of his:
- (a) Regular hourly rate of pay; or
 - (b) Average regular rate of pay for the final three (3) years of employment.
- (4) An appointing authority shall permit an employee who has accrued compensatory leave to take compensatory leave if it will not unduly disrupt the operations of the agency.
- (5) An employee deemed to be "nonexempt" by the provisions of the FLSA shall be compensated for hours worked in excess of forty (40) per week as provided by paragraphs (a) to (c) of this subsection.
- (a) An employee who has not accumulated the maximum amount of compensatory leave shall have the option to accumulate compensatory leave at the rate of an hour and one-half (1 1/2) for each hour worked in excess of forty (40) per week in lieu of paid overtime.

- (b) The election to receive compensatory leave in lieu of paid overtime shall be in writing and shall remain in force for a minimum of six (6) months. The election shall be changed by the submission of a new form. The effective date of a change shall be the first day of the next workweek following receipt of the election.
 - (c) An employee who does not elect compensatory leave in lieu of paid overtime shall be paid one and one-half (1 1/2) times his regular hourly rate of pay for all hours worked in excess of forty (40) hours per week.
- (6) An employee deemed to be "exempt" under the provisions of the FLSA shall accumulate compensatory time on an hour-for-hour basis for hours worked in excess of his regular work schedule.
- (7)
 - (a) An employee except one who is in a policy making position may, after accumulating 151 hours of compensatory leave, request that he be paid for fifty (50) hours at his regular rate of pay.
 - (b) If the appointing authority or his designee approves the payment, an employee's leave balance shall be reduced accordingly.
- (8)
 - (a) An employee who is not in a policy making positions, shall be paid

for fifty (50) hours at his regular hourly rate of pay upon accumulating at the end of the pay period, 240 hours of compensatory leave.

- (b) The employee's leave balance shall be reduced accordingly.
- (9) If an employee's prescribed hours of duty are normally less than forty (40) hours per week, he shall receive compensatory leave for the number of hours worked that:
- (a) Exceed the number of normally prescribed hours of duty; and
 - (b) Do not exceed:
 - 1. The maximum amount of compensatory time that is permitted; and
 - 2. Forty (40) hours.
- (10) Compensatory leave used during the workweek in which it is earned shall not constitute hours worked for computing paid overtime or time and one-half (1 1/2) compensatory time.

SECTION 6. MILITARY LEAVE

- (1) Upon request, an employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the Kentucky National Guard shall be relieved from his civil duties, to serve under orders on training duty without loss of his regular compensation for a period not to exceed ten (10) working days in a federal fiscal year.
- (2) The absence shall not be charged to leave.
- (3) Absence that exceeds ten (10) working days in a federal fiscal year shall be charged to annual leave, compensatory leave or leave without pay.
- (4) The appointing authority may require a copy of the orders requiring the attendance of the employee before granting military leave.
- (5) An appointing authority shall grant an employee entering military duty a leave of absence without pay for a period of such duty not to exceed six (6) years. Upon receiving military duty leave of absence, all accumulated annual and compensatory leave shall be paid in a lump sum, if requested

by the employee, upon receiving this leave.

SECTION 7. VOTING LEAVE

- (1) An employee who is eligible and registered to vote shall be allowed, upon prior request, four (4) hours, for the purpose of voting.
- (2) The absence shall not be charged against leave.
- (3) An employee who is not scheduled to work during voting hours shall not receive voting leave and shall not be entitled to compensatory leave in lieu of time off to vote. Employees who are permitted to work in lieu of voting leave shall be granted compensatory leave on an hour-for-hour basis for the hours worked on election day.

SECTION 8. SPECIAL LEAVE OF ABSENCE

- (1) An appointing authority may grant special leave for education or training.

- (2) (a) If approved by the commissioner, an appointing authority may grant a leave of absence for continuing education or training.
 - (b) Leave may be granted for a period not to exceed twenty-four (24) months.
 - (c) Leave may be granted with or without pay.
 - (d) Leave shall be restricted to attendance at a college, university, vocational or business school for training in subjects that:
 - 1. Relate to the employee's work; and
 - 2. Will benefit the state.
- (3) An appointing authority, with approval of the commissioner, may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than specified in this administrative regulation that are of tangible benefit to the state.
- (4) (a) If approved by the commissioner, an appointing authority may place an employee on special leave with pay for investigative purposes pending an investigation of allegations of employee misconduct.
- (b) Leave shall not exceed thirty (30) working days.
- (c) The employee shall be notified in writing by the appointing authority that he is being placed on special leave for investigative

purposes, and the reasons for being placed on leave.

- (d) If the investigation reveals no misconduct by the employee:
 - 1. He shall be made whole for the period of the leave; and
 - 2. Records relating to the investigation shall be purged from agency and department files.
 - (e) The appointing authority shall notify the employee, in writing, of the completion of the investigation and the action taken. Notification shall be made to the employee, whether he has remained in state service, or has voluntarily resigned during the interim between being placed on special leave for investigative purposes and the completion of the investigation.
- (5) Employees eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave during the previous month subject to the following conditions:
- (a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.
 - (b) An employee shall utilize his paid leave days consecutively if he:
 - 1. Is unable to work; and

2. Has elected to use paid leave to qualify for state contribution for life insurance and health benefits.
- (c) An employee who has exhausted paid leave shall not qualify for state contribution for life insurance and health benefits unless he works for more than half of the workdays in a month. If the employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.
 - (d) Any employee who leaves state government on or prior to the 15th day of the month, before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contribution for life insurance and health benefits in the following month.

SECTION 9. ABSENCE WITHOUT LEAVE

- (1) An employee who is absent from duty without approval shall report the reason for his absence to his supervisor immediately.

- (2) Unauthorized ~~and~~ or unreported absence shall be considered absence:
- (a) Without leave; and
 - (b) Absence may constitute grounds for disciplinary action.
- (3) An employee who has been absent without leave or notice to the supervisor for a period of ten (10) working days shall be considered to have resigned his employment.

SECTION 10. INCORPORATION BY REFERENCE

- (1) The following material is incorporated by reference:
- (a) "Certification of Health Care Provider (1996)";
 - (b) "Letter for Designation of FMLA (1996)"; and
 - (c) Application for Family Leave (1996)".
- (2) This material may be inspected, copied, or obtained at the Personnel Cabinet, 200 Fair Oaks Lane, Suite 516, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.
- (13 Ky.R. 425; eff. 9-4-86; Am. 15 Ky.R. 824; 1457; eff. 11-9-88; 2090;

2220; 16 Ky.R. 6; eff. 6-14-89; 1208; 1586; eff. 2-3-90; 17 Ky.R. 1115; eff.
12-6-90; 20 Ky.R. 567; 972; 1568; eff. 12-6-93; 21 Ky.R. 465; eff. 9-14-94;
22 Ky.R. 1089; 1610; 1814; eff. 4-5-96³ *ff. 5-23-96)*

EMERGENCY REGULATION

101 KAR 3:010E

LEAVE ADMINISTRATIVE REGULATIONS FOR UNCLASSIFIED SERVICE

RELATES TO: KRS 18A.155, 61.394, PL 103-3

STATUTORY AUTHORITY: KRS 18A.155, 18A.195, PL 103-3

NECESSITY AND FUNCTION: KRS 18A.155 requires the Commissioner of Personnel to submit to the Governor proposed administrative regulations for the unclassified service persons in positions enumerated in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (u) and (v). KRS 18A.155 further provides that these administrative regulations shall be approved by the Governor. This administrative regulation adopts and applies 101 KAR 2:100 governing leave policies to the unclassified service.

SECTION 1. ANNUAL LEAVE

- (1) (a) Each full-time employee in the state service, except a seasonal, temporary, per diem, and emergency employee, or a part-time employee who works at least 100 hours a month shall accumulate annual leave with pay at the following rate:

Months of Service	Annual Leave Days
0-59 months	1 leave day per month; 12 per year

60-119 months	1 1/4 leave days per month; 15 per year
120-179 months	1 1/2 leave days per month; 18 per year
180 months and over	1 3/4 leave days per month; 21 per year

- (b) A full-time employee shall have worked more than half of the workdays in a month to qualify for annual leave. An employee shall be credited with additional leave upon the first day of the month following the month in which the leave is earned.
- (c) In computing months of total service for the purpose of earning annual leave, only the months:
 - 1. For which a full-time employee earned annual leave shall be counted; or
 - 2. In which a part-time employee worked at least 100 hours shall be counted.
- (d) If an employee is changed from part time to full time, the months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing years of total service.
- (e) Former employees who have been rehired and who have been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, unless the dismissal resulted from a violation of KRS 18A.140, 18A.145, or 18A.990.
- (f) If an employee is changed from full time to part time, the months for

which the employee earned annual leave as a full-time employee shall be counted in computing months of total service.

- (g) A part-time employee who works less than 100 hours a month shall not be entitled to annual leave.

- (2) (a) Annual leave may be accumulated and carried forward from one (1) calendar year to the next as provided in this paragraph.

Months of Service	Maximum Amount
0-59 months	Thirty (30) workdays
60-119 months	Thirty-seven (37) workdays
120-179 months	Forty-five (45) workdays
180-239 months	Fifty-two (52) workdays
240 months and over	Sixty (60) workdays

- (b) Leave in excess of the amounts specified in paragraph (a) of this subsection shall be converted to sick leave at the end of the calendar year or upon retirement.
- (c) The amount of annual leave that may be accumulated, and the amount of annual leave that may be converted to sick leave, shall be determined by computing months of service as provided by subsection (1)(a) of this section.

- (3) Absence due to sickness, injury, or disability in excess of the amount authorized for such purposes may, at the request of the employee be charged against annual leave.
- (4) (a) Accumulated annual leave shall be granted by the appointing authority in accordance with operating requirements and, insofar as practicable, with an employee's request.
- (b) An employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the calendar year, up to at least the amount of time he earned that year.
- (5) An employee shall be charged with annual leave for absence only on days on which he would otherwise work and receive pay.
- (6) (a) Annual leave shall accrue if an employee is working or on authorized leave with pay.
- (b) Annual leave shall not accrue if an employee is on educational leave with pay.
- (7) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain his accumulated annual leave in the receiving agency.

- (8) Before an employee may be placed on leave of absence without pay in excess of thirty (30) working days, he shall have used or have been paid for any accumulated annual leave unless he has requested to retain up to ten (10) days of accumulated annual leave.
- (9) An employee who is eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave for more than half of the workdays in a month, subject to the following conditions:
- (a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.
 - (b) When an employee is unable to work and elects to use paid leave to qualify for state contribution for life insurance and health benefits, he shall utilize his paid leave days consecutively.
 - (c) An employee who has exhausted paid leave shall not qualify for state contribution for life insurance and health benefits unless he works for more than half of the workdays in a month. If the employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.

- (d) An employee who leaves state government on or prior to the 15th day of the month, before working or being on paid leave for over half of the workdays in the month, shall remain eligible for state contribution for life insurance and health benefits in the following month.
- (10) (a) If an employee is separated by proper resignation or retirement, he shall be paid in a lump sum for accumulated annual leave. The accumulated annual leave for which he is paid shall not exceed the amounts established by subsection (2) of this section.
- (b) If an employee is laid off, he shall be paid in a lump sum for all accumulated leave.
- (c) An employee in the unclassified service who reverts to the classified service, or resigns one (1) day and is employed the next day, shall retain his accumulated leave in the receiving agency.
- (d) The effective date of a separation shall be the last work day.
- (e) An employee may request in writing that his accumulated annual leave not be paid upon resignation, and that all or part of the amount of his accumulated annual leave that does not exceed the amount established by this section be waived, if:
1. He resigns, or is laid off from his position, because of an approved plan of privatization of the services he performed; and
 2. The successor employer has agreed to credit him with an equal

amount of annual leave.

- (11) An employee who has been dismissed for cause or who has failed to give proper notice of resignation, unless in the exercise of due diligence, the employee was unable to give the required notice through no fault of his own, shall not be paid ~~[in a lump sum]~~ for accumulated annual leave ~~[not to exceed the maximum amounts set forth in Section 1(2) of this administrative regulation]~~.
- (12) Upon the death of an employee, his estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave.
- (13) Absence for a fraction or part of a day that is charged to annual leave shall be charged in hours or increments of one-quarter (1/4) hours.

SECTION 2. SICK LEAVE

- (1) (a) An employee in the state service, except an emergency, per diem and part-time employee who works less than 100 hours a month, shall accumulate sick leave with pay at the rate of one (1) working day for each month of service.

month to qualify for sick leave with pay.

- (c) An employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned.
 - (d) A part-time employee who works at least 100 hours a month shall accumulate sick leave with pay at the rate of one (1) working day for each month of service.
 - (e) An employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave was earned.
- (2)
- (a) A full-time employee who completes 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service.
 - (b) In computing months of total service for the purpose of crediting ten (10) additional days of sick leave, only the months for which an employee earned sick leave shall be used.
 - (c) If an employee is changed from part time to full time, the months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing months of total service.
 - (d) A part-time employee who works at least 100 hours a month completing 120 months of total service with the state shall be credited with ten (10) additional sick leave days upon the first day of the month following the

completion of 120 months of service.

- (e) In computing months of total service for a part-time employee who works at least 100 hours a month for the purpose of crediting ten (10) additional sick leave days, only the months in which the employee worked at least 100 hours shall be used.
 - (f) If an employee is changed from full time to part time, the months for which the employee earned sick leave as a full-time employee shall be counted in computing years of total service.
 - (g) The total service shall be verified before the leave is credited to the employee's record.
 - (h) A former employee who is rehired after having been dismissed for cause from state service shall receive credit for service prior to the dismissal, if the dismissal was not due to a violation of KRS 18A.140, 18A.145, or 18A.990.
- (3) Unused sick leave may be accumulated with no maximum on accumulation.
- (4) (a) Sick leave shall accrue if an employee is working or on authorized leave with pay.
- (b) Sick leave shall not accrue if an employee is on educational leave with pay.

- (5) An appointing authority shall grant accrued sick leave with pay if the employee
- (a) Receives medical, dental or optical examination or treatment;
 - (b) Is disabled by sickness, injury or pregnancy. The appointing authority may require a doctor's statement attesting to the inability to perform his duties;
 - (c) Is required to care for a sick or injured member of his immediate family for a reasonable period of time. The appointing authority may require a doctor's statement supporting the need for care;
 - (d) Would jeopardize the health of others at his duty post, because of exposure to a contagious disease;
 - (e) Has lost by death a parent, child, brother or sister, or the spouse of any of them, or any persons related by blood or affinity with a similarly close association. Leave under this paragraph shall be limited to three (3) days, and may be extended for good cause at the discretion of the appointing authority.
- (6) At the termination of sick leave with pay not exceeding six (6) months, the appointing authority may return the employee to his former position. At the termination of sick leave with pay exceeding six (6) months, the appointing authority may return the employee to a position for which he is qualified and which resembles his former position as closely as circumstances permit.

- (7) (a) An appointing authority shall grant sick leave without pay for the duration of an employee's impairment by sickness, or illness, or pregnancy, if the total continuous leave does not exceed one (1) year.
- (b) The appointing authority may require periodic doctor's statements during the year attesting to the employee's continued inability to perform the essential functions of his duties with or without reasonable accommodation.
- (c) If an employee has given notice of his ability to resume his duties, the appointing authority shall return the employee to a position for which he is qualified and which resembles his former position as closely as circumstances permit.
- (d) If the reasonable accommodation is necessary, the employee shall:
1. Inform the employer; and
 2. Upon request, provide supportive documentation from a certified professional.
- (e) An employee shall be considered to have resigned if he:
1. Has been on one (1) year continuous sick leave without pay; and
 2. Has been requested by the appointing authority in writing to return to work at least ten (10) days prior to the expiration of sick leave; and
 3. Is unable to return to work; or
 4. Has been given priority consideration by the appointing authority

for a vacant, budgeted position with the same agency, for which he qualifies and is capable of performing its essential functions with or without reasonable accommodation; and

5. The appointing authority has been unable to place him in such a vacant position.

(f) An employee who has been resigned under this subsection shall retain reinstatement privileges that were accrued during his service in the classified system.

(8) An employee eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave for more than half of the workdays in a month, subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.

(b) An employee shall utilize his paid leave days consecutively if he:

1. Is unable to work; and

2. Has elected to use paid leave to qualify for state contribution for life insurance and health benefits.

(c) An employee who has exhausted paid leave shall qualify for state contribution for life insurance and health benefits if he works for more

than half of the workdays in a month.

- (d) If an employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.
 - (e) An employee who leaves state government on or prior to the 15th day of the month, before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contribution for life insurance and health benefits in the following month.
- (9) Absence for a fraction or part of a day that is chargeable to sick leave shall be charged in hours or increments of one-quarter (1/4) hours.
- (10) An employee who is transferred or otherwise moved from the jurisdiction of one agency to another shall retain his accumulated sick leave in the receiving agency.
- (11) (a) An employee shall be credited for accumulated sick leave if he is:
- 1. Separated by proper resignation, layoff, retirement; or
 - 2. Granted leave without pay in excess of thirty (30) working days.
- (b) A former employee who is reinstated or reemployed shall be credited with the unused sick leave balance credited to him upon separation.

- (12) (a) If an absence is due to illness or injury for which Workers' Compensation benefits are received, accumulated sick leave may be used to maintain regular full salary.
- (b) If paid sick leave is used, Workers' Compensation pay benefits shall be assigned to the state for the period of time the employee received paid sick leave.
- (c) The employee's sick leave shall be immediately reinstated to the extent that Workers' Compensation Benefits were assigned.

(13) Application for sick leave.

- (a) An employee shall file a written application for sick leave with or without pay within a reasonable time.
- (b) Except for an emergency illness, an employee shall request advance approval for sick leave for medical, dental or optical examination, and for sick leave without pay.
- (c) If he is ill, an employee shall notify his immediate supervisor or other designated person. Failure, without good cause, to do so in a reasonable period of time shall be cause for denial of sick leave for the period of absence.

(14) Supporting evidence.

- (a) An appointing authority may, for good cause and on notice, require an

employee to supply supporting evidence in order to receive sick leave. A supervisor's or employee's certificate may be accepted, but a medical certificate may be required, signed by a licensed practitioner and certifying to the incapacity, examination, or treatment. An appointing authority shall grant sick leave when the application is supported by acceptable evidence.

- (b) An appointing authority may place on sick leave an employee whose health might be jeopardized by job duties, whose health might jeopardize others, or whose health prevents performance of duties and responsibilities, and who, on request, fails to produce a satisfactory medical certificate.

SECTION 3. FAMILY LEAVE

It shall be the responsibility of the appointing authority to administer family leave in compliance with the Federal Family and Medical Leave Act of 1993 and regulations promulgated thereunder found in 29 CFR Part 825. Each employee in a nonexempt, nonpolicy making position shall be entitled to family leave as set out in 101 KAR 2:100, Section 3.

SECTION 4. COURT LEAVE

- (1) An employee shall be entitled to leave of absence from duties during his scheduled working hours without loss of time or pay for the amount of time necessary to:
 - (a) Comply with subpoenas by a court, or administrative agency or body of the federal or state government or any political subdivision thereof;
 - (b) Serve as a juror or a witness, unless the employee or a member of his family is a party to the proceeding.
- (2) Court leave shall include necessary travel time.
- (3) If relieved from duty as a juror or witness during his normal working hours, the employee shall return to work.
- (4) An employee shall not be required to report as court leave attendance at a proceeding that is part of his assigned duties.

SECTION 5. COMPENSATORY LEAVE AND OVERTIME

- (1)
 - (a) Appointing authorities shall comply with the overtime and compensatory leave provisions of this section and the Fair Labor Standards Act (FLSA).
 - (b) An employee who is authorized to work in excess of the prescribed hours

of duty shall be granted compensatory leave or paid overtime subject to the provisions of the Fair Labor Standards Act, the Kentucky Revised Statutes and this administrative regulation.

- (c) Compensatory leave may be accumulated or taken off in one-quarter (1/4) hour increments.
 - (d) The maximum amount of compensatory leave that may be carried forward from one (1) pay period to another shall be 240 hours.
- (2) An employee who is transferred or otherwise moved from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.
- (3) Upon separation from state service, an employee shall be paid for all unused compensatory leave at the greater of his:
- (a) Regular hourly rate of pay; or
 - (b) Average regular rate of pay for the final three (3) years employment.
- (4) An appointing authority shall permit an employee who has accrued compensatory leave to take compensatory leave if it will not unduly disrupt the operations of the agency.
- (5) An employee deemed to be "nonexempt" by the provisions of the FLSA shall be compensated for all hours worked in excess of forty (40) per week as

provided by paragraphs (a) to (c) of this subsection.

- (a) An employee who has not accumulated the maximum amount of compensatory leave shall have the option to accumulate compensatory leave at the rate of an hour and one-half (1 1/2) for each hour worked in excess of forty (40) per week in lieu of paid overtime.
 - (b) The election to receive compensatory leave in lieu of paid overtime shall be in writing and shall remain in force for a minimum of six (6) months. The election shall be changed by the submission of a new form. The effective date of a change shall be the first day of the next workweek following receipt of the election.
 - (c) An employee who does not elect compensatory leave in lieu of paid overtime shall be paid one and one-half (1 1/2) time his regular hourly rate of pay for all hours worked in excess of forty (40) hours per week.
- (6) An employee deemed to be "exempt" under the provisions of the FLSA shall accumulate compensatory time on an hour-for-hour basis for hours worked in excess of his regular work schedule.
- (7) An employee except one who is in a policy making position may, after accumulating 151 hours of compensatory leave, request that he be paid for fifty (50) hours at his regular rate of pay.
- (b) If the appointing authority or his designee approves the payment, an

employee's leave balance shall be reduced accordingly.

- (8)
 - (a) An employee who is not in a policy making positions, shall be paid for fifty (50) hours at his regular hourly rate of pay upon accumulating, at the end of the pay period, 240 hours of compensatory leave.
 - (b) The employee's leave balance shall be reduced accordingly.
 - (c) An employee in a policy making position shall be paid for all accrued compensatory leave, not to exceed 240 hours, only upon termination from the unclassified service. An employee who reverts to a position in the classified service or an employee who resigns one day and is employed the next day shall retain his accrued compensatory leave in the receiving agency.
- (9) If an employee's prescribed hours of duty are normally less than forty (40) hours per week, he shall receive compensatory leave for the number of hours worked that:
 - (a) Exceed the number of normally prescribed hours of duty; and
 - (b) Do not exceed:
 - 1. The maximum amount of compensatory time that is permitted; and
 - 2. Forty (40) hours.
- (10) Compensatory leave used during the work week in which it is earned shall not

constitute hours worked for computing paid overtime or time and one-half (1 1/2) compensatory time.

SECTION 6. MILITARY LEAVE

- (1) Upon request, an employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the Kentucky National Guard shall be relieved from his civil duties, to serve under orders on training duty without loss of his regular compensation for a period not to exceed ten (10) working days in a federal fiscal year.
- (2) The absence shall not be charged to leave.
- (3) Absence that exceeds ten (10) working days in a federal fiscal year shall be charged to annual leave, compensatory leave or leave without pay.
- (4) The appointing authority may require a copy of the orders requiring the attendance of the employee before granting military leave.

- (5) An appointing authority shall grant an employee entering military duty a leave of absence without pay for a period of such duty not to exceed six (6) years. Upon receiving military duty leave of absence, all accumulated annual and compensatory leave shall be paid in a lump sum, if requested by the employee upon receiving this leave.

SECTION 7. VOTING LEAVE

- (1) An employee who is eligible and registered to vote shall be allowed, upon prior request, four (4) hours, for the purpose of voting.
- (2) The absence shall not be charged against leave.
- (3) An employee who is not scheduled to work during voting hours shall not receive voting leave and shall not be entitled to compensatory leave in lieu of time off to vote. Employees who are permitted to work in lieu of voting leave shall be granted compensatory leave on an hour-for-hour basis for the hours worked on election day.

SECTION 8.

SPECIAL LEAVE OF ABSENCE

- (1) An appointing authority may grant special leave for education or training.
- (2) (a) If approved by the commissioner, an appointing authority may grant a leave of absence for continuing education or training.

(b) Leave may be granted for a period not to exceed twenty-four (24) months.

(c) Leave may be granted with or without pay.

(d) Leave shall be restricted to attendance at a college, university, vocational or business school for training in subjects that:

 1. Relate to the employee's work; and
 2. Will benefit the state.
- (3) An appointing authority, with approval of the commissioner, may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than specified in this administrative regulation that are of tangible benefit to the state.
- (4) (a) If approved by the commissioner, an appointing authority may place an employee on special leave with pay for investigative purposes pending an investigation of allegations of employee misconduct.

- (b) Leave shall not exceed thirty (30) working days.
 - (c) The employee shall be notified in writing by the appointing authority that he is being placed on special leave for investigative purposes, and the reasons for being placed on leave.
 - (d) If the investigation reveals no misconduct by the employee:
 - 1. He shall be made whole for the period of the leave; and
 - 2. Records relating to the investigation shall be purged from agency and department files.
 - (e) The appointing authority shall notify the employee, in writing, of the completion of the investigation and the action taken. Notification shall be made to the employee, whether he has remained in state service, or has voluntarily resigned during the interim between being placed on special leave for investigative purposes and the completion of the investigation.
- (5) Employees eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave for more than half of the workdays in a month, subject to the following conditions:
- (a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.
 - (b) An employee shall utilize his paid leave days consecutively if he:

1. Is unable to work; and
 2. Has elected to use paid leave to qualify for state contribution for life insurance and health benefits.
- (c) An employee who has exhausted paid leave shall not qualify for state contribution for life insurance and health benefits unless he works for more than half of the workdays in a month. If the employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.
- (d) Any employee who leaves state government on or prior to the 15th day of the month, before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contribution for life insurance and health benefits in the following month.

SECTION 9. ABSENCE WITHOUT LEAVE

- (1) An employee who is absent from duty without approval shall report the reason for his absence to his supervisor immediately.
- (2) Unauthorized ~~and~~ or unreported absence shall be considered absence:

- (a) Without leave; and
 - (b) Absence may constitute grounds for disciplinary action.
- (3) An employee who has been absent without leave or notice to the supervisor for a period of ten (10) working days shall be considered to have resigned his employment.

SECTION 10. INCORPORATION BY REFERENCE

- (1) The following material is incorporated by reference:
- (a) "Certification of Health Care Provider (1996)";
 - (b) "Letter for Designation of FMLA (1996)"; and
 - (c) "Application for Family Leave (1996)".
- (2) This material may be inspected, copied, or obtained at the Personnel Cabinet, 200 Fair Oaks Lane, Suite 516, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(13 Ky.R. 434; eff. 9-4-86; Am. 15 Ky.R. 833; 1461; eff. 11-9-88; 16 Ky.R. 1215; 1580; eff. 2-3-90; 17 Ky.R. 1121; eff. 12-6-90; 20 Ky.R. 572; 1573; eff. 12-6-93; 21 Ky.R. 470; eff. 9-14-94; 22 Ky.R. 1094; 1616; 1821; eff. 4-5-96 *ff* .

5-23-96)